

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA CHARLESTON DIVISION

RUSSELL D. SMITH,	§	
Plaintiff,	§	
	§	
VS.	§	
	§	
KEVIN JOHNSON and/or his successor in his	§	CIVIL ACTION NO. 2:06-3553-HFF-BM
capacity as Mayor of the City of Manning,	§	
South Carolina, and DWIGHT L. STEWART,	§	
JR. and/or his successor in his capacity as	§	
Chairman of the County Council of Clarendon	§	
County,	§	
Defendants.	§	

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

This action was filed pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, et seq. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendant Johnson's motion to dismiss be granted. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on March 16, 2007. Plaintiff failed to file any objections to the Report. In the absence of objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that Defendant Johnson's motion to dismiss be **GRANTED**.

IT IS SO ORDERED.

Signed this 12th day of April, 2007, in Spartanburg, South Carolina.

s/ Henry F. Floyd HENRY F. FLOYD UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.